

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION - DETROIT

IN RE: GEORGE HUTCHINSON,

Debtor,

Case No. 08-43851

Chapter 13

Hon. Thomas J. Tucker

_____/

Hardin & Associates, P.C. and Kenneth J. Hardin II,

Plaintiffs,

Adversary Proceeding

Vs.

George Hutchinson,

Defendant.

_____/

Douglas Moseley (P30678)
Attorney for Plaintiff
30150 Telegraph Road
Suite 345
Bingham Farms, MI 48025
(248) 723-9900

Robert Reed (P30591)
Attorney for the Defendant
220 W Congress, 2nd Floor
Detroit MI 48226
(313) 961-7258

_____/

COMPLAINT TO DETERMINE DISCHARGEABILITY OF
INDEBTEDNESS PURSUANT TO 11 USC § 523
AND FOR OTHER RELIEF

NOW COMES Plaintiff, Hardin & Associates, P.C. and Kenneth J. Hardin II
through counsel, and for their Complaint To Determine Dischargeability Of
Indebtedness Pursuant to 11 USC §523 and For Other Relief, states as follows:

General Averments

1. This is a Complaint to determine the dischargeability of certain indebtedness owed to the Plaintiffs by the Debtor.
2. This Complaint is filed pursuant to Rules 4007(a) and 7001(6) of the Rules of Bankruptcy Procedure.
3. This Court has jurisdiction in this Adversarial Proceeding pursuant to 28 U.S.C. § 157 and § 1334 since this proceeding arises out of the above-captioned Chapter 13 Case currently pending in this Federal Judicial District.
4. This adversarial proceeding is a core proceeding under 28 U.S.C. § 157(b)(2)(I).
5. The Plaintiff Hardin & Associates, P.C., is a professional corporation located in the State of Michigan, with its principal place of business located in Bingham Farms, Michigan.
6. Plaintiff Kenneth J. Hardin II, is an individual and principal of Hardin & Associates, P.C., with his principal place of residence in Bloomfield Hills, Michigan.
7. Defendant, Debtor George Hutchinson, is an individual with his principal place of residence located in West Bloomfield, Michigan.
8. On February 20, 2008, Defendant commenced this bankruptcy by filing a voluntary petition with this Court under Chapter 13 of the Bankruptcy Code.
9. Defendant is indebted to Plaintiff as more fully described herein.
10. The debt is non-dischargeable pursuant to 11 USC §523(a)(2)(A) of the the Bankruptcy Code.

Factual Allegations

11. Plaintiff hereby incorporates and adopts by reference Paragraphs 1 through 10 as if fully set forth herein.

12. Between March 16, 2007, and July 2, 2007, Defendant George Hutchinson individually and as principal of his businesses Renaissance Management Group and Renaissance Group and Management, Inc., requested, and Plaintiffs delivered, legal counsel and services on an open account, at the rate of \$275.00 per hour, and Defendant promised to pay for them.

13. On June 25, 2007, George Hutchinson as principal for Renaissance Management Group and Renaissance Group & Management, Inc., wrote a check in the amount of \$14,022.58 for partial payment of legal fees owed to the Plaintiffs. This check was returned for non-sufficient funds. (Exhibit "A")

14. On June 29, 2007 Defendant George Hutchinson as principal for Renaissance Management Group and Renaissance Group & Management, Inc., wrote a check for \$14,022.58 to replace the June 25, 2007 check. That check was returned for non-sufficient funds. (Exhibit "B")

15. On July 3, 2007, Defendant George Hutchinson as principal for Renaissance Management Group and Renaissance Group and Management, Inc., wrote a third check in the amount of \$18,039.58 which was to replace the previous two checks and pay additional costs incurred as a result of the prior two bounced checks. This check was returned for having non-sufficient funds. (Exhibit "C")

16. That the Defendant conspired with Leon D. Sweatt and Sharon Sweatt and induced them to draft a check to the Plaintiffs in the amount of \$18,039.58,

knowing that there were insufficient funds to cover the check and said check was returned by the bank for insufficient funds. (Exhibit "D")

17. Defendant's failure to honor his checks is a violation of the Michigan Penal Code, M.C.L.A. 750.131 et al.

18. Plaintiffs sued the Defendant for issuance of a bad check pursuant to MCLA 600.2952(4) and for breach of contract.

19. Plaintiffs received a default judgment against the Defendant in the amount of \$54,268.74 on September 18, 2007, in the Oakland County Circuit Court. (Exhibit "E")

20. On October 26, 2007, the parties entered into a Settlement Agreement to address payment of the default judgment, which stated in part:

"Defendants hereby acknowledge that the Judgment entered in favor of Hardin and against the Defendants in the amount of \$54,268.74 is valid and enforceable. Said Judgment was properly served, noticed and entered and Defendants have no meritorious defense to the judgment." (See Attached Exhibit "F")

21. The Settlement Agreement proposed a monthly payment of a portion of the judgment in full settlement of the debt.

22. Defendant defaulted on the Settlement Agreement immediately after executing same.

23. That the Defendant transferred all assets of his businesses Renaissance Group & Management and Renaissance Group Management, Inc. to Renaissance Group Management, II, LLC on or about May 3, 2007.

24. That on or about December 5, 2007, the Defendant wrote a check in the amount of \$2,000.00 for partial payment of the outstanding legal fees to the Plaintiffs. The check was returned for non-sufficient funds. (See attached Exhibit "G")

25. Defendant's failure to honor his checks is a violation of the Michigan Penal Code, M.C.L.A. 750.131 et al.

26. Plaintiffs sued the Defendant for issuance of a bad check pursuant to MCLA 600.2952(4) and the court granted the Plaintiff a default judgment in the amount of \$6,390.00.

Count I
Fraud/Misrepresentation

27. Plaintiff hereby incorporates and adopts by reference Paragraphs 1 through 26 as if fully set forth herein.

28. Defendant intentionally made false representations of material facts to Plaintiff as follows:

- a. The Defendant would compensate the Plaintiffs for legal services at a rate of \$275.00 per hour.
- b. The Defendant would honor his NSF check written on June 25, 2007, in the amount of \$14,022.58 for partial payment of legal fees owed to the Plaintiffs.
- c. The Defendant would honor his NSF check written on June 29, 2007, in the amount of \$14,022.58 for partial payment of legal fees owed to the Plaintiffs.
- d. The Defendant would honor his NSF check written on July 3, 2007, in the amount of \$18,039.58 for partial payment of legal fees owed to the Plaintiffs.
- e. The Defendant would abide by the terms of the Settlement Agreement entered into on October 26, 2007, wherein he agreed to

make payments on the debt incurred to the Plaintiffs by writing the dishonored checks.

- f. That Leon D. Sweatt and Sharon Sweatt would honor their NSF check written on the inducement of Defendant in the amount of \$18,039.58 for partial payment of legal fees owed to the Plaintiff.
- g. The Defendant would honor his NSF check written December 5, 2007 in the amount of \$2,000.00 for partial payment of legal fees owed the Plaintiffs.

29. The representations of the Defendant were false when they were made.

30. Defendant George Hutchinson, knew that the representations were false when they were made or were made recklessly, without knowing whether they were true.

31. Defendant, George Hutchinson intended Plaintiff to rely on his representations.

32. Plaintiff did rely on the representations of George Hutchinson that payment would be made for services rendered.

33. Plaintiff should rely on the representation of George Hutchinson that his checks as identified above were returned for non-sufficient funds, as expressly stated by George Hutchinson.

34. Plaintiff should rely on the representation of George Hutchinson that the check paid by Leon D. Sweatt and Sharon Sweatt would not be returned for non-sufficient funds, as expressly stated by George Hutchinson.

35. Pursuant to MCLA 600.2952, Plaintiff is entitled to the full amount of the dishonored check plus 2 times the amount and costs of 250.00 for each check returned for having non-sufficient funds.

WHEREFORE, Plaintiff requests that this Honorable court grant Plaintiff's actual economic damages in the amount of \$54,368.74 resulting from the dishonored checks before entry of the Settlement Agreement against the Defendant and an additional \$6,390.00 for the dishonored check dated December 5, 2007, for a total of \$60,758.74 plus interest, costs and attorney fees.

Count II
Breach of Contract

35. Plaintiff hereby incorporates and adopts by reference Paragraphs 1 through 30 as if fully set forth herein.

36. Defendant George Hutchinson entered into a Settlement Agreement with Hardin & Associates, P.C. and Kenneth J. Hardin II on October 26, 2007, for payment of the debt owed to Plaintiffs for legal services provided to the Defendant by the Plaintiffs. (Attached hereto as Exhibit "F")

37. The Settlement Agreement provided payment on the debt owed to the Plaintiff's by the Defendant, in bi-monthly payments, for a total of 30,000.00 to be paid on or before December 10, 2007.

38. The Settlement Agreement stated that if the Defendant defaulted on any payments the Plaintiff's would have the right to execute on the default judgment for the full amount.

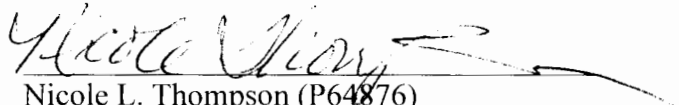
39. The Defendant breached the terms of the Settlement Agreement by failing to make payments.

40. Pursuant to the terms of the Settlement Agreement, the Defendant now owes the Plaintiffs the sum of \$54,268.74.

WHEREFORE, Plaintiff requests that this Honorable court grant Plaintiff's actual economic damages in the amount of \$54,368.74 resulting from the dishonored checks before entry of the Settlement Agreement against the Defendant and an additional \$6,390.00 for the dishonored check dated December 5, 2007, for a total of \$60,758.74 plus interest, costs and attorney fees.

Respectfully Submitted,

HARDIN & ASSOCIATES, PC

A handwritten signature in cursive script, appearing to read "Nicole Thompson", written over a horizontal line.

Nicole L. Thompson (P64876)

Kenneth J. Hardin II (P44681)

Douglas Moseley (P30678)

30150 Telegraph Rd., Ste. 345

Bingham Farms, MI 48025

Attorneys for Defendant

248-723-9900

Dated: March 14, 2008

0110

78-342724
9138

DATE

6/25/2007

PAY
TO THE
ORDER OF

Attorney Hardman & Associates, P.C.

\$ 14,022.58

Fourteen thousand and twenty two

58/100

DOLLARS

 **Huntington**
www.huntington.com

FOR

Attorney Fees Reason: Gary Maysford

⑈000110⑈ ⑆072403473⑆ 01381780077⑈

⑈0001402258⑈

OrigSeq:22809820 Date:06/25/2007 Sequence:22809820 Serial#:110 Account:1381780077 TranCode:0 Amount:\$14,022.58 Reform
acct:1381780077

Hardman & Associates, P.C.
for deposit only

0104 17040

CITIZENS BANK
FELTHERMAN

06222701

P0724005204

072507

0022809820 4 024 45
06252007 10724005204

EXHIBIT

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A

1024

RENAISSANCE GROUP AND MANAGEMENT

39500 W. 14 MILE RD. STE. 216
COMMERCE TOWNSHIP, MI 48300-3908DATE 6/24/20079-91
720 315PAY TO THE
ORDER OFHARDIN & ASSOCIATES\$ 14,022.58Fourteen thousand and twenty-two
58/100 DOLLARS

National City

FOR

Renaissance Legal FeesAgg. [Signature]

⑈00001024⑈ ⑆072000915⑆ 983415935⑈

⑈0001402258⑈

OrigSeq:21610990 Date:06/29/2007 Sequence:21610990 Serial#:1024 Account:983415935 TranCode:0 Amount:\$14,022.58 Reform
Acct:983415935

EVIDENCE MARK

Hardin & Associates PC

0113 69625

CITIZENS BANK
FLINT, MICHIGAN
48302-2471

⑆072 400 528⑆

JUN 29 07

0621610990 11 024 1
06292087 ⑆072400528⑆

EXHIBIT

B

1025

RENAISSANCE GROUP AND MANAGEMENT

38500 W 14 MILE RD. STE 216
COMMERCE TOWNSHIP, MI 48390-3908DATE 7/3/20079-91
720 315PAY TO THE
ORDER OFHARDIN & ASSOCIATES\$ 18039.58

DOLLARS

National City

FOR

Acc. Payable In Full

⑈00001025⑈ ⑈072000915⑈ 983415935⑈

⑈0001803958⑈

OrigSeq:22164570 Date:07/03/2007 Sequence:22164570 Serial#:1025 Account:983415935 TranCode:0 Amount:\$18,039.58 Reform
Acct:983415935

CITIZENS BANK

Hardin & Associates

DO NOT WRITE IN THESE SPACES

0122 200444

CITIZENS BANK
FLINT, MI 48802

200703000004

JA-307

0022164570 11 017 4
07032697 16724005264

EXHIBIT

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C

1/07 MON 11:12 FAX 3107687607

CITIZENS BANK

003

Leon D. Sweatt
Sharon Sweatt
13690 Garfield
Redford, Mi 48239

9-91 301
720
788385-54



772

7/2/07

Pay to the order of Hardin & Ass \$18,039⁵⁸
eighteen thousand three hundred and thirty nine and 58/100 dollars

National City.
National City Bank of the Midwest
Detroit, Michigan

None At the full Sharon Sweatt
⑆072000915⑆ 768385454⑆ 0772

EXHIBIT

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D

STATE OF MICHIGAN
JUDICIAL DISTRICT
6th JUDICIAL CIRCUIT

DEFAULT REQUEST, AFFIDAVIT,
ENTRY AND JUDGMENT
(SUM CERTAIN)



JUDGE FRED M. MESTER
HARDIN, KENNETH V RENAISSANCE
no.

Court address

1200 N Telegraph Rd., Pontiac MI 48341

(248) 858-1000

Plaintiff name(s), address(es), and telephone no(s)

Kenneth J. Hardin II & Hardin & Associates, P.C.
30150 Telegraph Rd., #345
Bingham Farms MI 48025
(248) 723-9900

2007 SEP 18 A 9:51
v

Defendant name(s), address(es), and telephone no(s)

George Hutchinson, 6022 Charles Dr., W Bloomfield MI 48322
Leon Sweatt and Sharon Sweatt, 13590 Garfield Rd Redford MI 48239
Renaissance Group Management a/k/a Renaissance Group
Defendant attorney, bar no., address, and telephone no.
& Management, 39500 14 Mile Road, Commerce Twp MI 48390

Plaintiff attorney, bar no., address, and telephone no.

Kenneth J. Hardin II (P44681)
Nicole L. Thompson (P64786)
30150 Telegraph Rd., #345
Bingham Farms MI 48025
(248) 723-9900

USE NOTE Plaintiff must complete the Request and Affidavit and the Default Judgment before filing with the court.

REQUEST AND AFFIDAVIT 1. I request a default entry against Renaissance Group Management a/k/a for failure to appear.

2. The claim against the defaulted party is for a sum certain or for a sum which by computation can be made certain, and the plaintiff requests judgment in the amount of \$ 54,118.74 from the defaulted party.

3. The defaulted party is not an infant or incompetent person.

4. ☐ It is unknown whether the defaulted party is in the military service. ☒ The defaulted party is not in the military service.

☐ The defaulted party is in the military but there has been notice of pendency of the action and adequate time and opportunity to appear and defend (attached, as appropriate, is a waiver of rights and protections provided under the Servicemembers Civil Relief Act).

Facts upon which this conclusion is based are: (specify) _____

5. The claim ☐ is ☒ is not based on a note or other written evidence of indebtedness (if so, evidence is attached for filing and cancellation by the clerk).

Applicant/Attorney signature

Bar no.

Subscribed and sworn to before me on 9-17-07

Date

County, Michigan.

My commission expires: 3-22-2014

Date

Signature: Frances G. Tadajewski

Deputy court clerk/Notary public

Notary public, State of Michigan, County of Oakland

FRANCES G. TADAJEWSKI
NOTARY PUBLIC, STATE OF MI
COUNTY OF OAKLAND

MY COMMISSION EXPIRES MAR 22 2014
ACTING IN COUNTY OF Oakland

DEFAULT ENTRY The default of the party named above for failure to appear is entered.

☐ A note or other written evidence of indebtedness has been filed for cancellation.

Date

SEP 18 2007

Court clerk

RUTH JOHNSON

DEFAULT JUDGMENT IT IS ORDERED this judgment is granted in favor of the plaintiff(s) as follows:

*Attach bill of costs if statutory limit is exceeded.

Damages: \$ 54,118.74 Costs: \$ 150.00 Attorney fee/Other: \$ _____ Total judgment: \$ 54,268.74

(This judgment will earn interest at statutory rates, computed from the filing date of the complaint.)

Judgment interest accrued thus far is \$ 409.71 and is based on: (if needed, attach separate sheet)

☐ the statutory rate of _____ % from _____ to _____
☒ the statutory 6-month rate(s) of 5.741 % from 08/01/2007 to 09/17/2007

Date

SEP 18 2007

Court clerk/Judge

RUTH JOHNSON

This judgment has been entered and will be final unless, within 21 days of default judgment date, a motion to set aside default is filed.

CERTIFICATE OF MAILING I certify that on this date copies of this default entry and default judgment were served on the parties or their attorneys by first-class mail to their last-known addresses.

Date

Sept 18, 2007

Signature

Barbara Lynn

EXHIBIT

E

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release ("Agreement") is made and entered into as of the 28 day of October, 2007, between the Plaintiffs KENNETH J. HARDIN, II and HARDIN & ASSOCIATES, P.C. ("Hardin") and Defendants RENAISSANCE GROUP & MANAGEMENT, INC., RENAISSANCE GROUP MANAGEMENT, INC. and GEORGE HUTCHINSON, LEON D. SWEATT and SHARON SWEATT ("Defendants").

WHEREAS, Hardin was retained by Defendants to provide legal services.

WHEREAS, Defendant issued four (4) checks to Hardin for payment of legal services and all four (4) checks were returned for having non-sufficient funds.

WHEREAS, a Judgment of \$54,268.74 was entered on behalf of Hardin and against Defendants on September 18, 2007.

WHEREAS, the purpose of this Agreement is to resolve all existing and potential claims and outstanding obligations amongst Hardin and Defendants ("The Parties"), relating to the Judgment.



NOW, THEREFORE, in consideration of the payment to Hardin by Defendants of the sum of Thirty-Five Thousand Dollars and 00/100 (\$35,000.00) the ("Settlement Amount") and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by The Parties, it is agreed as follows:

1. Defendants will pay the Settlement Amount as follows:
 - A) \$2,000 by October 29, 2007;
 - B) ~~\$2,000 by November 2, 2007,~~ *GK. 10/11*
 - C) \$2,000 by November 9, 2007;

EXHIBIT

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F

- D) \$2,000 by November 16, 2007;
- E) \$2000 by November 23, 2007;
- F) \$2,000 by November 30, 2007;
- G) \$2,000 by December 7, 2007;
- H) \$2,000 by December 14, 2007;
- I) \$2,000 by December 21, 2007;
- J) \$2,000 by December 28, 2007;
- K) \$2,000 by January 5, 2008;
- L) \$2,000 by January 11, 2008;
- M) \$2,000 by January 18, 2008;
- N) \$2,000 by January 25, 2008;
- O) \$2,000 by February 1, 2008;
- P) \$2,000 by February 8, 2008;
- Q) \$2,000 by February 15, 2008; and
-  R) \$3,000 by February 22, 2008. 

Defendants shall be given a five (5) day grace period for all checks due on or after November 2, 2007.

2. As long as payments are made as described in paragraph 1 above, Defendants, at their discretions, may pay the total sum of \$30,000.00 on or before December 10, 2007 for a full and final satisfaction of this Agreement.

3. The payments are to be made payable to Hardin & Associates, P.C. and will be delivered to 30150 Telegraph Road, Suite 345, Bingham Farms, MI 48025 on or before the date specified in paragraph 1.

4. If Defendants fail to make any payment of the Settlement Amount when due, or if any of the checks are returned for having non-sufficient funds, Hardin will have the right to execute on the Judgment in the amount of \$54,268.74 plus interest, costs and attorney fees incurred from the date of the Judgment forward.

5. Defendants hereby acknowledge that the Judgment entered in favor of Hardin and against Defendants in the amount of \$54,268.74 is valid and enforceable. Said Judgment was properly served, noticed and entered and Defendants have no meritorious defense to the Judgment.

6. Once the Settlement Amount is paid in full, The Parties agree to release and forever discharge The Parties, their officers, directors, shareholders, agents, subsidiaries, affiliates and representatives, attorneys, successors, and heirs and assigns, from any and all claims, demands, debts, liabilities and causes of action at law or in equity, known or unknown, suspected or unsuspected, that they have now or may ever have against The Parties, their officers, directors, shareholders, agents, subsidiaries, affiliates, and representatives, attorneys, successors, and heirs and assigns, related to, arising out or resulting from any matters, whatsoever, excepting on those obligations imposed upon Defendants under this Agreement.

7. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Michigan.

8. **Partial and Validity.** Should any paragraph or provision or clause of this Agreement be found to be ineffective, invalid or unenforceable, the remainder of this Agreement shall be valid and enforceable, and the parties shall negotiate, in good faith, a substitute, valid and enforceable provision which more nearly affects The Parties'

intent in entering into this Agreement.

9. **Entire Agreement.** This Agreement constitutes the entire Agreement of The Parties as to the subject matter hereof. There are no other Agreements, written or oral, expressed or implied, between the parties hereto, except as set forth in this Agreement.

10. **Voluntary Execution of this Agreement.** This Agreement is executed voluntarily and without any duress or undue influence on the part or behalf of the parties hereto, with full intent of releasing certain claims by The Parties. The Parties acknowledge that:

A) They have read this Agreement;

B) They have been represented in the preparation, negotiation, and execution of this Agreement by legal counsel of their own choice or have opportunity to do so;

C) They understand the terms and consequences of this Agreement and of the releases and waivers it contains; and they have not relied upon any representations or statements made by the other party, which are not specifically set forth in this Agreement;

D) They are fully aware of the legal and binding effect of this Agreement.

11. **Execution by Separate Writings.** This Agreement may be executed in two or more counter parts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12. Joint Draftsmanship. Each of The Parties hereto has joined in and contributed to the drafting of this Agreement and each of the parties hereto hereby agree that there shall be no presumptions favoring or burdening any one or more parties hereto based upon draftsmanship.

IN WITNESS WHEREOF, they have executed this Agreement on the date set forth below:

Date: 10/26, 2007

RENAISSANCE GROUP & MANAGEMENT, INC.
and RENAISSANCE MANAGEMENT, INC.

By: [Signature]

Its: Pres. Bob

Date: 10/26, 2007

GEORGE HUTCHINSON, Individually

[Signature]
George Hutchinson

Date: _____, 2007

LEON D. SWEATT

Date: _____, 2007

SHARON SWEATT

Subscribed and sworn to before me
this ____ day of _____, 2007.

Notary Public

Date: _____, 2007

HARDIN & ASSOCIATES, P.C.

By: _____

Kenneth J. Hardin II

Its: President

Date: _____, 2007

KENNETH J. HARDIN II, Individually

Kenneth J. Hardin II

RENAISSANCE GROUP MANAGEMENT II LLC 07-07

5715 WILL CLAYTON
STE. 3351
HUMBLE, TX 77338

1030

DATE 12-5-2007

9-32 829
720

PAY
TO THE
ORDER OF

Kenneth Hardin

\$2,000.00

DOLLARS

CHASE

JPMorgan Chase Bank, N.A.
Detroit, Michigan 48226
www.chase.com

FOR November 30, 2007 payment

⑈001030⑈ ⑆072000326⑆

732484845⑈

⑈0000200000⑈

MP

Charge Back Item

800-806-1692

Citizens Bank - MI
Date: 12-10-2007
Acct: 000000

Please be advised that the check(s) listed - which was deposited to your account - has been returned unpaid. Please deduct all items and any applicable fees from your balance. To determine if fees have been assessed please call the number above.

REASON

AMOUNT

Refer to Maker

2000.00

HARDIN & ASSOCIATES, P.C.
KENNETH J HARDIN II
30150 TELEGRAPH RD SUITE 345
BINGHAM FARMS MI 48018
RECEIVED

DEC 13 2007

Item(s) Charged Back	1
Items Total	\$ 2000.00

EXHIBIT

G